

BLACK JACK OIL CO.

IBLA 81-1094

Decided October 26, 1981

Appeal from the decision of the Utah State Office, Bureau of Land Management, rejecting oil and gas lease application U-47863.

Vacated and remanded.

1. Oil and Gas Leases: Applications: Generally -- Oil and Gas Leases:
Applications: Filing

Where Bureau of Land Management rejects a simultaneous oil and gas lease application because the applicant's corporate qualifications file did not accurately reflect the corporate structure at the time of the application's filing as required by 43 CFR 3102.2-5(a), and the applicant establishes that its file was current and accurate, but a question remains as to the applicant's compliance with 43 CFR 3102.2-5(b), the Bureau of Land Management decision will be vacated and the case remanded for further action.

APPEARANCES: John M. Kenderdine, President, Black Jack Oil Company.

OPINION BY ADMINISTRATIVE JUDGE HENRIQUES

Black Jack Oil Company appeals the decision of the Utah State Office, Bureau of Land Management (BLM), dated September 1, 1981, rejecting oil and gas lease application U-47863 because the company's corporate qualifications file, referenced on the application by number W-56943, was not in compliance with 43 CFR 3102.2-5.

The cited regulation, effective June 16, 1980, reads in full:

(a) A corporation which seeks to lease shall submit with its offer, or application if leasing is in accordance with Subpart 3112 of this title, a statement showing:

- (1) The State in which it is incorporated;
- (2) That it is authorized to hold oil and gas leases;
- (3) A complete list of corporate officers, identifying those authorized to act on behalf of the corporation in matters relating to Federal oil and gas leasing;
- (4) The percentage of voting stock and of all the stock owned by aliens; and
- (5) The names and addresses of the stockholders holding more than 10 percent of the stock of the corporation.

(b) A separate statement from each stockholder owning or controlling more than 10 percent of the stock of the corporation setting forth the stockholder's citizenship, percentage of corporate stock owned or controlled and compliance with the acreage limitations of §§ 3101.1-5 and 3101.2-4 of this title shall also be filed with the proper Bureau of Land Management office not later than 15 days after the filing of an offer, or application if leasing is in accordance with Subpart 3112 of this title.

Appellant's oil and gas lease application was selected for first priority for parcel UT-52 in the November 1980 simultaneous drawing held by the Utah State Office, BLM. As noted, appellant referenced its qualifications file W-56943 on its application. Following the drawing, the Utah State Office requested a report from the Wyoming State Office as to appellant's qualifications and compliance with 43 CFR 3102.2-5. The Wyoming State Office reported that it had accepted file W-56943 on December 12, 1977, and that it was not in compliance with 43 CFR 3102.2-5. It did report, based on the file, however, the following required information: (1) Appellant was incorporated in Texas; (2) corporate officers authorized to sign oil and gas lease applications were John M. Kenderdine, President, Leonard F. Goetsch, Secretary and Treasurer, and James M. Rhodes, Director; (3) C. F. Adams, Inc., P.O. Box 253, Ft. Worth, Texas 76101, is 100 percent stockholder; and (4) no aliens owned stock in the company.

BLM then issued a decision dated August 4, 1981, requiring appellant to submit "[a] complete list of officers, identifying those authorized to act on behalf of the corporation, as of November 1980."

Appellant responded:

[A] complete list of officers is as follows:

JOHN M. KENDERDINE - President, Black Jack Oil Co.
and parent corp., C. F. ADAMS,
INC.

DR. JAMES M. KENDERDINE - Vice President, Black Jack
Oil Co. and parent corp., C. F. ADAMS,
IN

LEONARD F. GOETSCH - Secretary & Treasurer, Black Jack
Oil Co. and parent corp., C. F. ADAMS,
INC.

John M. Kenderdine, President, and Leonard F. Goetsch, Secretary & Treas. are authorized to act on behalf of the corporation in all matters relating to the operations of Black Jack Oil Co. In addition to these two officers, Mr. James M. Rhodes, Asst. to the President, is also authorized to act on behalf of the corporation in all matters pertaining to Black Jack Oil Co. Please see copy of Minutes of Special Meeting of Directors & Stockholders of C. F. ADAMS, INC. dated November 28, 1977 (Incl. #1). There was no change in these provisions in November, 1980 and they are still current as of this date.

BLM then rejected appellant's oil and gas lease application because Dr. James M. Kenderdine, appellant's vice president, was not named in its corporate qualifications file at the time of the November drawing.

In its statement of reasons, appellant asserts that its corporate qualifications were not deficient at the time it filed for parcel UT-52 in November 1980 because its officers at that time were the same as those identified in the file and those persons were the only persons authorized to act in matters relating to oil and gas leases. Appellant explains that the position of vice president was vacant from 1977 through January 1981 when Dr. Kenderdine was elected to the position. Appellant enclosed a copy of the minutes of the 1981 annual meeting of C. F. Adams, Inc., held January 16, 1981, which verifies Dr. Kenderdine's election as vice president on that date.

It appears that appellant understood BLM's August 1981 request to require a current list of corporate officers and the identification of those officers who were authorized to act on behalf of the corporation in November 1980 and that appellant's corporate officers in November 1980 were as reflected in its corporate qualifications file. Therefore, BLM's decision rejecting appellant's oil and gas lease application for violation of 43 CFR 3102.2-5(a) because the list of corporate officers was not current in 1980 must be vacated. We note, however, that there is no information in the case file as to whether appellant had submitted all of the information required by 43 CFR 3102.2-5(b), particularly that dealing with acreage limitations, and, therefore, we must remand this case for further review by BLM before a lease may issue.

Accordingly, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is vacated and the case remanded for further action.

Douglas E. Henriques
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Gail M. Frazier
Administrative Judge

